

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHAEL FLOOD, JR. and ALECIA
FLOOD, individually and as Parents and
Natural Guardians of T.F., a minor

CIVIL ACTION NO. 2:18-cv-1310

Plaintiffs,

Honorable Mark R. Hornak, J.

v.

GEORGE VILLEGAS, JR. and PAM
VILLEGAS, individually and as Parents
and Natural Guardians of MEGAN
VILLEGAS, DAVID and CHRISTY
SHERK, individually and as Parents and
Natural Guardians of K.S., a minor;
DAVID and CHRISTINE SEAMAN,
individually and as Parents and Natural
Guardians of C.S., a minor; CRIS and
KIMBERLY SALANCY, individually and
as Parents and Natural Guardians of
E.S., a minor; DAVID and LYNN REINA,
individually and as Parents and Natural
Guardians of H.R., a minor; SENECA
VALLEY SCHOOL DISTRICT; BUTLER
COUNTY DISTRICT ATTORNEY'S
OFFICE; and BUTLER COUNTY,
PENNSYLVANIA

Defendants

**DEFENDANT, SENECA VALLEY SCHOOL DISTRICT'S MOTION TO DISMISS
PURSUANT TO FED.R.CIV.P. 12(B)(6)**

Defendant, Seneca Valley School District ("Seneca Valley"), submits this motion to dismiss Plaintiffs' Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state claims upon which relief may be granted.

1. As against Seneca Valley, Plaintiffs' Complaint asserts an Equal Protection Clause claim pursuant to 42 U.S.C. § 1983 and a claimed violation of Title IX, 20 U.S.C. § 1681(a). The gravamen of Plaintiff's claims against Seneca Valley is

that the school district did not discipline female adolescents for making allegedly false accusations that the minor Plaintiff, T.F. committed sexual assault while at a municipal pool in the summer of 2017 and at a private residence in March 2018.

A. Count XI of the Complaint Fails to State an Equal Protection Claim Against Seneca Valley

2. Count XI of the Complaint attempts to state a claim pursuant to § 1983 that Seneca Valley violated the minor Plaintiff, T.F.'s right to equal protection under the law as guaranteed by the Fourteenth Amendment to the United States Constitution. In particular, the Complaint asserts that: (1) T.F. was deprived of equal protection of the laws prohibiting gender discrimination by the inaction of Seneca Valley to discipline his accusers for allegedly false accusation of sexual assault, (2) alternatively, T.F. suffered a "class of one" equal protection violation as a result of his female accusers not being disciplined by Seneca Valley, (3) alternatively, T.F. was deprived of equal protection by a policy or custom of Seneca Valley of reverse gender discrimination, and (4) alternatively, Seneca Valley was deliberately indifferent to false accusations by females of sexual assault against T.F., a male.

3. The Complaint contains no allegations that female students were treated by Seneca Valley differently than male students or that other similarly situated students were treated differently by Seneca Valley than T.F. because of his gender.

4. The Complaint fails to identify any similarly situated persons to establish a "class of one" equal protection claim.

5. The Complaint fails to allege facts that would establish that Seneca Valley engaged in a policy or custom of reverse gender discrimination.

6. The Complaint does not aver sufficient factual allegations as would support the elements of deliberate indifference and causation of injury to T.F. by Seneca Valley.

7. For these reasons, as more fully discussed in Seneca Valley's supporting brief, Count XI of the Complaint fails to state a claim against Seneca Valley for which relief may be granted and, as to Seneca Valley, should be dismissed.

B. Count XII of the Complaint Fails to State a Title IX Claim Against Seneca Valley

8. Count XII of the Complaint purports to assert a claim against Seneca Valley for a Title IX violation, contending that, by failing to discipline T.F.'s female accusers for allegedly false accusations, Seneca Valley was deliberately indifferent to harassment based on T.F.'s gender.

9. The Complaint does not set forth any factual allegations to establish that T.F. suffered any deprivation of access to Seneca Valley's educational programs on account of his gender.

10. The Complaint does not set forth any factual allegations to establish that Seneca Valley's lack of discipline of T.F.'s female accusers amounted to indifferent difference based solely upon T.F.'s gender. There is no allegation that T.F.'s female accusers were motivated by T.F.'s gender. There are no allegations to establish that Seneca Valley had substantial control over the alleged harassers and the context in which the alleged harassment occurred. There are no allegations to establish that Seneca Valley had actual knowledge of gender-based harassment. There are no allegations in the Complaint that T.F. suffered any harassment or was

denied access to educational programs after the juvenile proceedings were withdrawn in September 2018.

11. For these reasons, as more fully discussed in Seneca Valley's supporting brief, Count XI of the Complaint fails to state a claim against Seneca Valley for which relief may be granted and, as to Seneca Valley, should be dismissed.

12. The foregoing motion to dismiss has been discussed with other counsel of record in this matter. Plaintiffs intend to oppose the motion. The other Defendants in this matter do not oppose the motion.

WHEREFORE, Defendant, Seneca Valley School District, respectfully requests that, as against Seneca Valley, Plaintiffs' Complaint be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state claims for which relief may be granted.

Respectfully submitted,

/s/ Matthew M. Hoffman
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Dated: November 29, 2018

Attorneys for Defendant,
Seneca Valley School District

CERTIFICATE OF SERVICE

I hereby certify that, on this 29th day of November 2018, I have filed electronically the foregoing Brief in Support of Defendant, Seneca Valley School District's Motion to Dismiss Pursuant to Fed.R.Civ.P. 12(b)(6) with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification to the following attorney(s) of record as follows:

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The following individuals have been served via first class mail, postage pre-paid, this 29th day of November, 2018.

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